

Appl. No. 09/899,711
Reply dated June 17, 2009
Reply to Office Action mailed June 19, 2008

REMARKS

Applicant is submitting herewith formal drawings in lieu of replacement drawings that overcome the examiner's objection to the drawings.

Applicant wishes to thank the examiner for the courtesy of the telephonic interview with Applicant's attorney and the inventor.

PRIOR ART REJECTIONS

In response to the Examiner's rejection of Claims 1-3, 5-8, 10-13, 21-24, 26-29 under 35 U.S.C. 103 as being unpatentable over US Patent No. 6,741,980 to Langseth et al. ("Langseth"), the rejection of claims 14-19 under 35 U.S.C. 103 as being unpatentable over Langseth and further in view of the Human Factors Design Guide ("Design Guide"), the rejections are improper because the examiner has not established a *prima facie* case of obviousness for the reasons set forth below.

In the present case, the examiner has not established a *prima facie* case of obviousness because, for each independent claim, the examiner has not made the findings that: 1) the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference. Therefore, the examiner has not established a *prima facie* case of obviousness and the rejections must be withdrawn.

Langseth

Langseth discloses a system in which "personalized" information is delivered to the user periodically. *See Langseth at Col. 3, lines 16-26.* The Langseth system has different channels wherein each channel has information and transactional data about a particular field of interest, such as a business, weather, sports, news, investments, traffic and others. *See Langseth at col. 3, lines 16-21.*

Langseth discloses a finance channel in which "a subscriber may select to be notified immediately after his stock portfolio experiences a predetermined amount of change, such as 10%, for example." *See Langseth at col. 5, lines 5-8.* This may be known as a stock market alert.

Langseth also discloses a sports channel that has a number of services including a "bets and odds index". *See Langseth at col. 8, line 65.* This is the only portion of Langseth that in any way discusses bets and odds index.

During the interview, the examiner analogized the stock market alert to the features of the claimed system and method for providing sporting event odds and information from multiple sports books using the above “bets and odds index” language for the suggestion to have the claimed features based on Langseth. However, the stock market and the stock alerts on the one hand and the sporting event odds and information from multiple sports books on the other hand are not analogous for the reasons set forth below and the teaching of the alerts in the stock market would not suggest providing sporting event odds and information from multiple sports books. First, a stock is traded on a single exchange and a stock alert is based on the price of the stock on the single exchange. In contrast, sporting event odds and information are gathered from multiple sports books (each of which may have different odds) which are displayed to the user so that the stock price (or alert that a stock price has changed) is not analogous to the claimed features. Second, the stock market is a free market in which people bid, buy and sell stocks and the prices are dependent on those free market characteristics. In contrast, sporting event odds and information are not based on a free market and the odds at each sports book is controlled exclusively by the particular sports book so that the stock market is not analogous and one would not apply the free market principles of the stock market to gambling and the sporting event odds and information.

Claims 1-3 and 5

Claim 1

The examiner has not established a *prima facie* case of obviousness for this claim because the examiner has not shown that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference.

“the program displaying a major line move alert indicating when a number of sport books change their odds for a bet for a sports game in the same direction with a user settable period of time and a bet tracker that displays a list of the bets made by a user or a line seeker alert indicating when a sport book has odds that satisfy a set of criteria of the user”

Claim 1 recites “the program displaying a major line move alert indicating when a number of sport books change their odds for a bet for a sports game in the same direction with a user settable period of time and a bet tracker that displays a list of the bets made by a user or a line seeker alert indicating when a sport book has odds that satisfy a set of criteria of the user”. Thus, claim 1 requires the claimed major line move alert and one of a bet tracker or a line seeker alert and Langseth does not disclose this combination of features.

The claimed major line move alert indicating when a number of sport books change their odds for a bet for a sports game in the same direction with a user settable period of time is not disclosed by Langseth. At most, Langseth discloses a stock alert for a stock price move or a portfolio change (stock market related alerts) as described above. The stock market related alerts described in Langseth do not indicate “when a number of sport books change their odds for a bet for a sports game in the same direction with a user settable period of time” as set forth in claim 1. Furthermore, even if the stock market related alerts of Langseth could be interpreted to be the claimed major line move alert (which they cannot), one would not apply the stock market related alert of Langseth to a gambling context because the stock market is not analogous to gambling and sports books for the reasons set forth above. Thus, the major line move alert is not disclosed in Langseth and cannot be derived from the stock market related alert of Langseth.

The combination of the major line move alert and one of the bet tracker or the line seeker is also not disclosed by Langseth.

Furthermore, the examiner argues that “Langseth essentially teaches a Line Seeker feature that provides an alert when predetermined odds on a particular game are offered by a sports book enabling the user to get the information needed automatically. Langseth teaches sending alerts concerning odds. Langseth teaches notifying a user when a stock price reaches a certain level (Fig 9) Langseth is therefore inherently capable of sending the same type of notice in respect to odds.” *See Office action at pg. 3.* However, as set forth above, pursuant to MPEP 2163.07(a), the examiner has not shown and cannot show that the Line Seeker claim feature is “inherently” present in Langseth.

In the final office action, the examiner responds to Applicant’s argument by stating: “Langseth certainly teaches providing real time information regarding odds. Furthermore, Langseth teaches stock price alerts that are clearly analogous to the claimed line seeker feature.

It is the examiner's belief that Langseth's alerts concerning odds are alerts when the odds reach a certain point (i.e., the claimed line seeker feature). Examiner contends that taken as a whole, Langseth either teaches the line seeker feature, or it would have been obvious to one of ordinary skill in the art at the time of the invention to have used Langseth's disclosure that users may be notified when a condition is met to implement the claimed line seeker feature" *See Final Office action at pg. 7.* The above argument however is unsupported. First, the examiner says "It is the examiner's belief that Langseth's alerts concerning odds are alerts..." which is incorrect and unsupported since nowhere does Langseth in fact disclose alerts concerning odds as admitted by the examiner. Second, the statement that "Langseth's alerts concerning odds are alerts when the odds reach a certain point (i.e., the claimed line seeker feature)" is equally unsupported because, even if Langseth did disclose odds alerts (which it does not), nowhere does Langseth that there are odds alerts that are alerts when the odds reach a certain point. Thus, the examiner's position is without support and this claim element is not disclosed by Langseth.

Thus, this claim element is not found in the prior art and a *prima facie* case of obviousness for claim 1 has not been established for this reason.

"providing a program that utilizes an Internet connection to provide real time sports bet odds and information for a plurality of sports games from a plurality of sport books, said real time sports bet odds and information being downloaded and stored on a user's computer, and wherein said program being incapable of placing bets"

Claim 1 recites "providing a program that utilizes an Internet connection to provide real time sports bet odds and information for a plurality of sports games from a plurality of sport books, said real time sports bet odds and information being downloaded and stored on a user's computer, and wherein said program being incapable of placing bets" which does not exist in Langseth. Nowhere does Langseth disclose that real time odds and information are being provided to the user. Furthermore, Langseth does not disclose that "sports bet odds for a plurality of sports games from a plurality of sports books are downloaded and stored on the user's computer as required by claim 1.

While Langseth does disclose that a sports channel may include "bets and odds index" (See *Langseth at Col. 8, line 65-* which is the only support cited by the examiner for most of the

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claim elements), it does not disclose the real time odds and information for a plurality of sports games from a plurality of sport books being downloaded to the user's computer as set forth in the claims.

Furthermore, contrary to the examiner's assertion that "Langseth is therefore inherently capable of sending the same type of notice in respect to odds":,

"To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.'" *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted). *MPEP 2163.07(a)*

In this particular case, there is no evidence that the missing descriptive matter is necessarily present in the thing described in the reference and therefore it is not "inherent" per *MPEP 2163.07(a)*.

Thus, this claim element is not found in the prior art and a *prima facie* case of obviousness for claim 1 has not been established for at least this reason.

"Navigating said display in order to acquire information, said navigation means comprising a menu made up of various menus, and for any particular game or bet, the program being capable of visually cycling through odds for the plurality of sport books"

Claim 1 also recites "navigating said display in order to acquire information, said navigation means comprising a menu made up of various menus, and for any particular game or bet, the program being capable of visually cycling through odds for different sport books" which is not found in Langseth. The examiner has argued that navigation menus are disclosed in Langseth (Figure 14) and then argued that "it would be a matter of obvious design choice to have a menu that ... for any particular game or bet, the program is capable of visually cycling through odds from different sports books." *See Office action at 4.*

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The examiner's position is incorrect because: 1) Figure 14 is an output of the Langseth system using HTML that has graphical elements, but does not in fact disclose any menus as asserted by the examiner (*See Langseth at col. 22, lines 31-39*); and 2) even if Langseth discloses menus as asserted by the examiner, which Langseth does not, the capability to visually cycle through odds for different sport books as set forth in the claim is clearly not simple a matter of obvious design choice because Langseth does not even disclose that it can displays odds for different sports books.

In the final office action, the examiner argues "Langseth's Fig. 14 shows a menu of choices that may be used to navigate (i.e., the links). While the format does not match that of the Applicant's menu design is a matter of design choice." *See Final Office action at pg 7*. Even assuming for the sake of argument that Fig. 14 of Langseth shows menus (which it does not as argued previously), Langseth does not disclose "for any particular game or bet, the program being capable of visually cycling through odds for the plurality of sport books" as set forth in claim 1. Applicant pointed this out to the examiner previously and nowhere has the examiner addressed this point.

Summary

Thus, at least two claim elements are not found in Langseth and the examiner has therefore failed to show a *prima facie* case of obviousness since the examiner has not shown that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference.

Claims 2-3 and 5

These claims depend from independent claim 1 and the examiner has not established a *prima facie* case of obviousness for these claims for at least the same reasons as set forth above for claim 1.

Claims 6-8 and 10

Claim 6

The examiner has not established a *prima facie* case of obviousness for this claim because the examiner has not shown that: 1) the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention

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and the prior art being the lack of actual combination of the elements in a single prior art reference.

“The program displaying real time odds and information including a major line move alert indicating when a number of sport books change their odds for a bet for a sports game in the same direction with a user settable period of time”

Claim 6 recites “the program displaying real time odds and information including a major line move alert indicating when a number of sport books change their odds for a bet for a sports game in the same direction with a user settable period of time” which is not disclosed by Langseth.

The claimed major line move alert indicating when a number of sport books change their odds for a bet for a sports game in the same direction with a user settable period of time is not disclosed by Langseth. At most, Langseth discloses a stock alert for a stock price move or a portfolio change (stock market related alerts) as described above. The stock market related alerts described in Langseth do not indicate “when a number of sport books change their odds for a bet for a sports game in the same direction with a user settable period of time” as set forth in claim 1. Furthermore, even if the stock market related alerts of Langseth could be interpreted to be the claimed major line move alert (which they cannot), one would not apply the stock market related alert of Langseth to a gambling context because the stock market is not analogous to gambling and sports books for the reasons set forth above. Thus, the major line move alert is not disclosed in Langseth and cannot be derived from the stock market related alert of Langseth.

Thus, this claim element is not found in the prior art and a *prima facie* case of obviousness for claim 6 has not been established for this reason.

“providing a program that utilizes an Internet connection to provide real time sports bet odds and information for a plurality of sports games from a plurality of sport books, said real time sports bet odds and information being downloaded and stored on a user's computer, and wherein said program being incapable of placing bets”

Claim 6 recites “providing a program that utilizes an Internet connection to provide real time sports bet odds and information for a plurality of sports games from a plurality of sport

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books, said real time sports bet odds and information being downloaded and stored on a user's computer, and wherein said program being incapable of placing bets" which does not exist in Langseth for the same reasons as claim 1 above and the argument will not be repeated here.

"navigating said display in order to acquire real time sports bet odds and information using a menu made up of various menus, and for any particular game or bet, the program being capable of visually cycling through odds for the plurality of sport books"

Claim 6 also recites "navigating said display in order to acquire real time sports bet odds and information using a menu made up of various menus, and for any particular game or bet, the program being capable of visually cycling through odds for the plurality of sport books" which is not found in Langseth for at least the same reasons as set forth above for claim 1.

Summary

Thus, at least two claim elements are not found in Langseth and the examiner has therefore failed to show a *prima facie* case of obviousness since the examiner has not shown that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference.

Claims 7-8 and 10

These claims depend from independent claim 6 and the examiner has not established a *prima facie* case of obviousness for these claims for at least the same reasons as set forth above for claim 6.

Claims 11- 19 and 21

Claim 11

The examiner has not established a *prima facie* case of obviousness for this claim because the examiner has not shown that: 1) the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference.

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“The program displaying real time odds and information including a major line move alert indicating when a number of sport books change their odds for a bet for a sports game in the same direction with a user settable period of time”

Claim 11 recites “the program displaying real time odds and information including a major line move alert indicating when a number of sport books change their odds for a bet for a sports game in the same direction with a user settable period of time” which is not disclosed by Langseth.

The claimed major line move alert indicating when a number of sport books change their odds for a bet for a sports game in the same direction with a user settable period of time is not disclosed by Langseth. At most, Langseth discloses a stock alert for a stock price move or a portfolio change (stock market related alerts) as described above. The stock market related alerts described in Langseth do not indicate “when a number of sport books change their odds for a bet for a sports game in the same direction with a user settable period of time” as set forth in claim 1. Furthermore, even if the stock market related alerts of Langseth could be interpreted to be the claimed major line move alert (which they cannot), one would not apply the stock market related alert of Langseth to a gambling context because the stock market is not analogous to gambling and sports books for the reasons set forth above. Thus, the major line move alert is not disclosed in Langseth and cannot be derived from the stock market related alert of Langseth.

Thus, this claim element is not found in the prior art and a *prima facie* case of obviousness for claim 11 has not been established for this reason.

“providing a program that utilizes an Internet connection to provide real time sports bet odds and information for a plurality of sports games from a plurality of sport books, said real time sports bet odds and information being downloaded and stored on a user's computer, and wherein said program being incapable of placing bets”

Claim 11 recites “providing a program that utilizes an Internet connection to provide real time sports bet odds and information for a plurality of sports games from a plurality of sport books, said real time sports bet odds and information being downloaded and stored on a user's

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computer, and wherein said program being incapable of placing bets" which does not exist in Langseth for the same reasons as claim 1 and the arguments are not repeated here.

"Navigating said display in order to acquire information, said navigation means comprising a menu made up of various menus, and for any particular game or bet, the program being capable of visually cycling through odds for the plurality of sport books"

Claim 11 also recites "navigating said display in order to acquire information, said navigation means comprising a menu made up of various menus, and for any particular game or bet, the program being capable of visually cycling through odds for different sport books" which is not found in Langseth for the same reasons as claim 1 and the arguments are not repeated here.

Summary

Thus, at least two claim elements are not found in Langseth and the examiner has therefore failed to show a prima facie case of obviousness since the examiner has not shown that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference.

Claims 12-19 and 21

These claims depend from independent claim 11 and the examiner has not established a prima facie case of obviousness for these claims for at least the same reasons as set forth above for claim 11.

Claims 22- 24 and 26

Claim 22

The examiner has not established a prima facie case of obviousness for this claim because the examiner has not shown that: 1) the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference.

"Means for a display of real time sports bet odds and information including a major line move alert indicating when a number of sport

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books change their odds for a bet for a sports game in the same direction with a user settable period of time”

Claim 22 recites “means for a display of real time sports bet odds and information including a major line move alert indicating when a number of sport books change their odds for a bet for a sports game in the same direction with a user settable period of time” which is not disclosed by Langseth.

The claimed major line move alert indicating when a number of sport books change their odds for a bet for a sports game in the same direction with a user settable period of time is not disclosed by Langseth. At most, Langseth discloses a stock alert for a stock price move or a portfolio change (stock market related alerts) as described above. The stock market related alerts described in Langseth do not indicate “when a number of sport books change their odds for a bet for a sports game in the same direction with a user settable period of time” as set forth in claim 1. Furthermore, even if the stock market related alerts of Langseth could be interpreted to be the claimed major line move alert (which they cannot), one would not apply the stock market related alert of Langseth to a gambling context because the stock market is not analogous to gambling and sports books for the reasons set forth above. Thus, the major line move alert is not disclosed in Langseth and cannot be derived from the stock market related alert of Langseth.

Thus, this claim element is not found in the prior art and a *prima facie* case of obviousness for claim 22 has not been established for this reason.

“a program that utilizes an Internet connection to provide real time sports bet odds and information for a plurality of sports games from a plurality of sport books, said real time sports bet odds and information being downloaded and stored on a user's computer, and wherein said program being incapable of placing bets”

Claim 22 recites “a program that utilizes an Internet connection to provide real time sports bet odds and information for a plurality of sports games from a plurality of sport books, said real time sports bet odds and information being downloaded and stored on a user's computer, and wherein said program being incapable of placing bets” which does not exist in Langseth for the same reasons as claim 1 and the arguments are not repeated here.

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“Means for navigating said display in order to acquire information said navigation means comprising a menu made up of various menus, and for any particular game or bet, the program being capable of visually cycling through odds for the plurality of sport books; and”

Claim 22 also recites “means for navigating said display in order to acquire information said navigation means comprising a menu made up of various menus, and for any particular game or bet, the program being capable of visually cycling through odds for the plurality of sport books” which is not found in Langseth for the same reasons as claim 1 and the arguments are not repeated here.

Summary

Thus, at least two claim elements are not found in Langseth and the examiner has therefore failed to show a prima facie case of obviousness since the examiner has not shown that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference.

Claims 23-24 and 26

These claims depend from independent claim 22 and the examiner has not established a prima facie case of obviousness for these claims for at least the same reasons as set forth above for claim 22.

Claims 27-29

Claim 27

The examiner has not established a prima facie case of obviousness for this claim because the examiner has not shown that: 1) the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference.

“The program displaying real time odds and information including a major line move alert indicating when a number of sport books change their odds for a bet for a sports game in the same direction with a user settable period of time”

Claim 27 recites “the program displaying real time odds and information including a major line move alert indicating when a number of sport books change their odds for a bet for a sports game in the same direction with a user settable period of time” which is not disclosed by Langseth.

The claimed major line move alert indicating when a number of sport books change their odds for a bet for a sports game in the same direction with a user settable period of time is not disclosed by Langseth. At most, Langseth discloses a stock alert for a stock price move or a portfolio change (stock market related alerts) as described above. The stock market related alerts described in Langseth do not indicate “when a number of sport books change their odds for a bet for a sports game in the same direction with a user settable period of time” as set forth in claim 1. Furthermore, even if the stock market related alerts of Langseth could be interpreted to be the claimed major line move alert (which they cannot), one would not apply the stock market related alert of Langseth to a gambling context because the stock market is not analogous to gambling and sports books for the reasons set forth above. Thus, the major line move alert is not disclosed in Langseth and cannot be derived from the stock market related alert of Langseth.

Thus, this claim element is not found in the prior art and a prima facie case of obviousness for claim 27 has not been established for this reason.

“providing a program that utilizes an Internet connection to provide real time sports bet odds and information for a plurality of sports games from a plurality of sport books, said real time sports bet odds and information being downloaded and stored on a user's computer, and wherein said program being incapable of placing bets”

Claim 27 recites “providing a program that utilizes an Internet connection to provide real time sports bet odds and information for a plurality of sports games from a plurality of sport books, said real time sports bet odds and information being downloaded and stored on a user's computer, and wherein said program being incapable of placing bets” which does not exist in Langseth for the same reasons as claim 1 and the arguments are not repeated here.

“navigating said display in order to acquire real time sports bet odds and information using a menu made up of various menus, and for any particular

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game or bet, the program being capable of visually cycling through odds for the plurality of sport books”

Claim 27 also recites “navigating said display in order to acquire real time sports bet odds and information using a menu made up of various menus, and for any particular game or bet, the program being capable of visually cycling through odds for the plurality of sport books” which is not found in Langseth for the same reasons as claim 1 and the arguments are not repeated here.

“customizing the program so that the program downloads and stores, on the user's computer, occurrences connected with odds offered by one or more sports book, processes said downloaded information, and alerts the user when a predetermined occurrence takes place in connection with the odds offered by one sports book or a predetermined number of sports books to enable the user to acquire the information he needs automatically”

Claim 27 also recites “customizing the program so that the program downloads and stores, on the user's computer, occurrences connected with odds offered by one or more sports book, processes said downloaded information, and alerts the user when a predetermined occurrence takes place in connection with the odds offered by one sports book or a predetermined number of sports books to enable the user to acquire the information he needs automatically” which is not found in Langseth for the same reasons as claim 1 set forth above and the arguments are not repeated herein.

Summary

Thus, at least three claim elements are not found in Langseth and the examiner has therefore failed to show a *prima facie* case of obviousness since the examiner has not shown that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference.

Claims 28-29

These claims depend from independent claim 27 and the examiner has not established a *prima facie* case of obviousness for these claims for at least the same reasons as set forth above for claim 27.

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CONCLUSION

In view of the above, it is respectfully submitted that Claims 1-3, 5-8, 10-19, 21-24 and 26-29 are allowable over the prior art cited by the Examiner and early allowance of these claims and the application is respectfully requested.

The Examiner is invited to call Applicant's attorney at the number below in order to speed the prosecution of this application.

The Commissioner is authorized to charge any deficiencies in fees and credit any overpayment of fees to Deposit Account No. 07-1896.

Respectfully submitted,

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